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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/803,596 | 03/18/2004 | Robert Thomas Kepka | UP13 | 7341 |
| 34356 | 7590 | 06/22/2005 | EXAMINER | |
| ASHKAN NAJAFI, P.A. 6817 SOUTHPOINT PARKWAY SUITE 2301 JACKSONVILLE, FL 32216 | | | | WRIGHT, ANDREW D |
| | | ART UNIT | | PAPER NUMBER |
| | | 3617 | | |

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|----------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/803,596 | KEPKA, ROBERT THOMAS |
| | Examiner | Art Unit |
| | Andrew Wright | 3617 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 April 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 and 19 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 19 is/are allowed.
- 6) Claim(s) 1-4, 6, 8-11 and 13 is/are rejected.
- 7) Claim(s) 5, 7 and 12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 March 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rotation about at least 180° (claims 5 and 19) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1-3, 6, 8-10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hosoi (US 5,647,780). Hosoi shows a gimbal assembly for an outdrive. Hosoi discloses a steering cylinder and circuit (column 3, lines 36-41). The steering system and circuit constitute a control means for generating a user input and directing the outdrive system to rotate freely in a selected radial path. Hosoi shows gimbal housing (32) and gimbal ring (34) that constitute the gimbal section. Hosoi discloses that the steering cylinder is connected to the gimbal housing. Hosoi shows cylinders (84, 114) that constitute a support means for assisting to maintain the gimbal section at a stable position during operation. The cylinders are connected at least indirectly to the transom.

4. Claim 2, Hosoi shows an upper housing (22) extending from the transom comprising first shaft (54) and second shaft (58) and bevel gear (56). The shafts are substantially orthogonal to each other (fig 4).

5. Claim 3, Hosoi shows universal gear (60) connected to the shaft (58) such that the outdrive can be rotated clockwise and counterclockwise.

6. Claim 6, the support means comprises cylinders (84, 114) and pumps (100, 120).

7. Hosoi as, described above, discloses the limitations recited in claims 8-10 and 13

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1, 4, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchard (US 4,371,348). Regarding claim 1, Blanchard shows a control means (105). The support means comprises the upper housing (41) and the hydraulic mechanism for tilting the lower housing (43) (not shown, see lines 47-50 of column 3). The upper unit (41) portion of the support means is connected to the transom and lower unit (43) respectively. The tilt function is independent of the steering function. Blanchard shows a connection between the upper housing (41) and lower housing (43). Blanchard teaches that the connection can be any suitable means that provides pivotal movement of the lower housing about the tilt axis. The connection must also allow for steering. Blanchard shows a circular connection that resembles a gimbal. Based upon Blanchard's suggestion that any suitable connection could be used, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Blanchard by using a gimbal connection between the upper housing and lower housing. The motivation would be to use a known connection in the art that provides the required pivotal movement.

10. Regarding claim 4, Blanchard shows a steering gear (97) that includes a shaft (95). The shaft, which is part of the gear, extends into the gimbal section. The steering gear is operatively connected to the control means to direct the outdrive between selected positions.

11. Blanchard as described with respect to claims 1 and 4 contains the elements of claims 8 and 11. Inspection of the steering mechanism reveals that it can swing the lower housing through at least a 90° arc.

Allowable Subject Matter

12. Claim 19 is allowed.

13. Claims 5, 7, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments filed 4/13/05 regarding claims 1-3, 6, 8-10, and 13 have been fully considered but they are not persuasive. Applicant does not argue the 35 USC 102(b) rejection of claims 1-3, 6, 8-10, and 13.

15. Applicant's arguments filed 4/13/05 regarding claims 1, 4, 8, and 11 have been fully considered and are persuasive. The rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made. See above. Since applicant's amendment did not necessitate the rejection, this action is non-final.

Conclusion

16. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number 571-272-6690. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at 571-272-6684. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 571-273-6690.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright
Patent Examiner
Art Unit 3617

ANDREW D. WRIGHT
PRIMARY EXAMINER

[Signature] 6/7/05